

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

ARCH INSURANCE COMPANY,)
a Missouri corporation,)
)
Plaintiff,)
)
v.) Case No. 12 CV 00786
)
MICHAELS STORES, INC., a Delaware) Judge Ruben Castillo
Corporation, and DOES 1-50, inclusive,)
)
Defendant.)

JOINT MOTION TO STAY PROCEEDINGS

Plaintiff and Counter-Defendant Arch Insurance Company (“Arch”) and Defendant and Counter-Claimant Michael Stores, Inc. (“Michaels”) (collectively referred to herein as the “Parties”) hereby advise the Court that they have reached an agreement in principal that would resolve the insurance coverage issues being litigated in this action, including those that are the subject of the parties’ pending cross-motions for partial summary judgment (Docket Nos. 26 and 29). Therefore, Arch and Michaels request that the Court defer ruling on the parties’ pending, fully-briefed cross-motions for partial summary judgment and that this action be stayed to allow the parties the opportunity to resolve this matter without the Parties or the Court incurring the costs associated with further litigation. The Parties further request that the Court set a status conference in or around 30-45 days on a day convenient for the Court so that the Parties can apprise the Court of the status of the resolution of this case. In support of this motion, the Parties state:

1. Arch and Michaels jointly request that the Court defer its ruling on the pending, fully-briefed cross-motions for partial summary judgment and stay this action because it is expected that the agreement in principal reached between them will resolve the coverage disputes at issue in this action. However, the Parties need additional time to work out the details of the agreement in principal and allow certain events to take place.

2. Under the law, “the power to stay proceedings is incidental to the power inherent

in every court to control the disposition of the cases on its docket with economy of time and effort for itself, for counsel and for the litigants.” *Landis v. North American Co.*, 299 U.S. 248, 254 (1936). “When and how to stay proceedings is within the sound discretion of the trial court.” *Cherokee Nation v. United States*, 124 F.3d 1413, 1416 (Fed. Cir. 1997).

3. “When deciding whether to grant a stay, courts balance the competing interests of the parties and the interest of the judicial system.” *Markel American Ins. Co. v. Ryan Dolan and Regions Bank*, 787 F.Supp. 2d 776, 779 (2011). “Courts often consider the following factors when deciding whether to stay an action: (i) whether a stay will unduly prejudice or tactically disadvantage the non-moving party, (ii) whether a stay will simplify the issues in question and streamline the trial, and (iii) whether a stay will reduce the burden of litigation on the parties and on the court.” *Id.*

4. Here, the Parties agree that this action should be stayed and agree that the stay will facilitate resolution of the contested issues in this case.

5. The stay should also afford the time necessary for resolution of and dismissal of this action without further action from the Court, thereby conserving judicial resources and eliminating the burden of the costs associated with further litigation on the Parties and the Court.

Wherefore, for the reasons stated above, Arch and Michaels request that this action be stayed and request a status conference be held within 30-45 days on a day convenient for the Court so that the Parties can apprise the Court of the status of the resolution of this case.

Dated: September 7, 2012

GORDON & REES LLP

By: /s/ Ryan Brown
Ryan T. Brown (ARDC No. 6269256)
Email: rtbrown@gordonrees.com
GORDON & REES LLP
One North Franklin
Suite 800
Chicago, Illinois 60606
Tel: (312) 565-1400
Fax: (312) 565-6511

Respectfully submitted,

JONES DAY

By: /s/ Mark DeMonte
Morgan R. Hirst (06275128)
Email: mhirst@jonesDay.com
Mark W. DeMonte (0628734)
Email: mdemonte@jonesday.com
JONES DAY, 77 West Wacker
Chicago, IL 60601.1692
Telephone: 312.782.3939
Facsimile: 312.782.8585

Admitted Pro Hac Vice:
Matthew S. Foy (CSBN 187238)
Email: mfoy@gordonrees.com
GORDON & REES LLP
275 Battery Street, Suite 2000
San Francisco, California, 94111
Tel: (415) 986-5900
Fax: (415) 986-8054

Attorneys for Plaintiff and Counter-Defendant
Arch Insurance Company

Of Counsel:
Edward M. Joyce
Email: emjoyce@jonesday.com
JONES DAY
222 E. 41st Street
New York, NY 10017
Telephone: 212.326.3939
Facsimile: 212.755.7306

Attorneys for Defendant and Counter-Claimant
Michaels Stores, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on September 7, 2012, I filed the foregoing Joint Motion on behalf of the Parties through the Court's ECF system, which will send notification of such filing to the following at their e-mail address on file with the Court:

Ryan T. Brown (rtbrown@gordonrees.com)
Paul M. Gamboa (pgamboa@gordonrees.com)
Maria C. Granjean (mgranjean@gordonrees.com)
Matthew S. Foy (mfoy@gordonrees.com)
Gordon & Rees LLP
One North Franklin
Suite 800
Chicago, IL 60606
Counsel for Plaintiff Arch Insurance Co.
Tel. 312-565-1400
Fax. 312-565-6511

By: /s/ Mark W. DeMonte

*Attorney for Defendant-Counterclaimant
Michaels Stores, Inc.*